

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

-VS-

DARTANYAN JUEL TURNER,
MARCELINO RIOS-CALVA,
JAYCE LEON PIRTLE,
BRANDON BERNELL BLANCHE,
MARTIN ANTHONY WHITE, and
MICHAEL PHILLIP BUTLER.

Defendants.

No. 2: 08-CR-0150-WFN-1
2: 10-CR-2001-WFN-1
2: 11-CR-0160-WFN-1
2: 11-CR-0191-WFN-1
2: 11-CR-2127-WFN-1
2: 12-CR-0127-WFN-1

**ORDER ON PENDING
§ 2255 MOTION**

Pending before the Court is the Government's Motion to Stay Petition Under 18 U.S.C. § 2255 in Defendant Pirtle's case. ECF No. 74. Each of the above captioned Defendants has asked the Court to retroactively apply *Johnson* to the residual clause in the United States Sentencing Guidelines. Each asks that the Court apply *Johnson* retroactively to the Guidelines, invalidate the residual clause in USSG § 4B1.2(a)(2) and to resentence the Defendant without regard to the residual clause. On June 27, 2016, the Supreme Court granted certiorari in *Beckles v. United States*, No. 15-8444, to decide two questions pertinent to these above-captioned cases: (1) whether the holding of *Johnson v. United States*, 135 S. Ct. 2551 (2015), applies to the residual clause of the career offender guideline, USSG § 4B1.2(a)(2); and (2) if so, whether *Johnson's* invalidation of the residual clause of the career offender guideline applies retroactively on collateral review. Each of the above-named cases asserts that the answer to each of the questions presented to the Supreme Court is "yes." Rather than guess what the Supreme Court's decision will be, the Court stays each of the pending § 2255 motions until a decision is made by the

1 Supreme Court. Though there is only a Motion to Stay in Pirtle, the Court *sua sponte*
2 stays the remaining cases due to the similarity of the issues. Accordingly,

3 **IT IS ORDERED** that:

4 1. The Government's Motion to Stay Petition Under 28 U.S.C. § 2255,

5 **2:11-CR-0160 ECF No. 70, is GRANTED.**

6 2. Each of the above-captioned cases is **STAYED** pending a decision in *Beckles v.*
7 *United States*, No. 15-8444.

8 3. All pending hearings and deadlines for all the above-captioned cases are

9 **VACATED.**

10 4. Once the Supreme Court issues a decision in *Beckles*, the Court will set hearings
11 for oral argument on the pending motions, if appropriate.

12 The District Court Executive is directed to file this Order and provide copies to
13 counsel.

14 **DATED** this 27th day of July, 2016.

15
16 s/ Wm. Fremming Nielsen

17 WM. FREMMING NIELSEN

18 SENIOR UNITED STATES DISTRICT JUDGE

07-26-16